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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No. CR 08-00709 JW
	)	
Plaintiff,	)	
	)	GOVERNMENT'S SENTENCING
v.	)	MEMORANDUM
	)	
ROBERT SCOTT WEST,	)	Sentencing Date: June 15, 2009
	)	Sentencing Time: 1:30 p.m.
	)	Before: The Honorable James Ware
Defendant.	)	

On or about October 9, 2008, an information was filed against defendant Robert Scott West ("defendant"), charging him with one count of possession of stolen trade secrets, in violation of 18 U.S.C. § 1832(a)(3). On or about March 9, 2009, defendant pled guilty to the one count information.

On or about May 29, 2009, the Probation Office issued its final Pre-Sentence Report ("PSR") in this matter. The PSR calculated that defendant's base offense level was 6 (pursuant to U.S.S.C. § 2B1.1(a)(2)) and that a 8-enhancement for the amount of loss (pursuant to U.S.S.G. § 2B1.1(b)(1)(E)) which is greater than \$70,000 but less than \$120,000 (PSR ¶¶ 22-23), was

1 applicable. With the 2-level downward adjustment for acceptance of responsibility pursuant to  
2 U.S.S.G. § 3E1.1(B), defendant's final adjusted offense level is 12 (PSR ¶¶ 27-31). The  
3 Probation Office further determined that defendant has no criminal history points and is in  
4 Criminal History Category I (PSR ¶ 35). Based on the defendant's criminal history, the  
5 Probation Office calculated defendant's applicable sentencing guideline range to be 10 to 16  
6 months (PSR ¶ 59).

7 The government believes that there are additional factors in this case that would warrant  
8 a variance from defendant's sentencing guideline range. On or about March 3, 2009, defendant  
9 met with the victim company, Phillips Lumileds Lighting Company and government to review  
10 his offense conduct and compile a comprehensive list of all the possible locations for the copies  
11 of the trade secret and other proprietary information that he had previously had in his possession,  
12 control and custody. In addition, defendant has paid full restitution to the victim company.  
13 Based on defendant's extraordinary acceptance, the government respectfully requests that the  
14 Court grant him a two-month variance, find that his sentencing guideline range is 8 to 14 months  
15 and sentence him to the low end of that range - 8 months. The government also respectfully  
16 requests that, for that for the 8-month sentence, the Court sentence defendant to a split sentence -  
17 4 months imprisonment and 4 months home detention.

18 On May 29, 2009, the Probation Office also filed its final sentencing recommendation,  
19 which recommended a sentence of 10 months home detention. Probation Office Sentencing  
20 Recommendation, p. 1. The government has no objections to the factual findings and sentencing  
21 guideline calculations of the PSR. However, the government disagrees with the Probation  
22 Office's final sentencing recommendation. The government believes that, given the serious  
23 nature of the offense, a sentence of four months imprisonment and four months home detention  
24 is appropriate and respectfully requests that the Court sentence defendant to such a term.

25 Dated: May 29, 2009

JOSEPH P. RUSSONIELLO  
United States Attorney

26  
27 /s/ Hanley Chew  
HANLEY CHEW  
28 Assistant United States Attorney